

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

INTEGRATED ARCHITECTURE, P.C.,

Plaintiff-Appellant,

v

COMMUNITY HOSPITAL and HEALTHCARE  
EQUITIES GROUP,

Defendants-Appellees.

---

UNPUBLISHED

June 10, 2003

No. 237842

Kent Circuit Court

LC No. 01-001221-CK

Before: Smolenski, P.J., and Cooper and Fort Hood, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order denying plaintiff's application to vacate an arbitration award pursuant to MCR 3.602(J), and confirming the arbitration award in favor of plaintiff, which found only defendant Healthcare Equities Group (HEG) liable to plaintiff. We affirm.

Plaintiff, defendant Community Hospital, and defendant HEG entered into a contract (AIA contract) for the development of a healthcare complex located in Springfield, Ohio. This agreement did not contain an integration or merger clause. After submitting its first invoice for architectural services, Community Hospital directed plaintiff to submit all invoices to HEG, which was acting as the hospital's project administrator under a separate agreement between Community Hospital and HEG. It is undisputed that HEG was to compensate plaintiff from the money it received from Community Hospital. HEG initially paid plaintiff as agreed, but failed to pay plaintiff the remaining balance due for its architectural services, totaling \$460,695.37. Community Hospital refused to pay plaintiff because it had already paid HEG \$750,000, which included compensation for plaintiff's architectural services.

Per the AIA contract terms, plaintiff commenced arbitration proceedings against Community Hospital.<sup>1</sup> The hospital filed its own claim against HEG, and the two claims were consolidated. Plaintiff was awarded \$460,695.37, the remaining balance for architectural services that it had provided, to be paid by HEG. However, HEG was bankrupt. Plaintiff then filed an application to vacate the arbitration award pursuant to MCR 3.602(J). The trial court

<sup>1</sup> The contract provided that disputes were to be submitted to arbitration and governed by Michigan law.

concluded that the arbitration panel had not exceeded its authority in reaching its decision, and denied plaintiff's application to vacate the arbitration award.

On appeal, plaintiff argues that the trial court erred in not finding that the arbitration panel exceeded its authority when it failed to reform the signature page of the parties' contract under the equitable theory of reformation based on mutual mistake, but instead found an ambiguity.<sup>2</sup> We disagree.

An arbitration award may be vacated in limited circumstances, such as when the arbitrator exceeded his powers. MCR 3.602(J). An arbitrator exceeds the scope of his powers when he acts beyond the material terms of the contract from which he primarily derives his authority or he acts in contravention of controlling principles of law. *Gordon Sel-Way, Inc v Spence Bros, Inc*, 438 Mich 488, 496; 475 NW2d 704 (1991); *DAIIE v Gavin*, 416 Mich 407, 434; 331 NW2d 418 (1982). A reviewing court may vacate an arbitration award if it finds an error of law which is apparent on its face and is so substantial that but for the error the award would have been substantially different. *Gordon Sel-Way, supra* at 497.

In the present case, the arbitration panel found that an ambiguity existed in the AIA contract because of the discrepancy between the first page and signature page of the contract in regards to who was the "owner." Whether a contract term is ambiguous is question of law. *Port Huron Ed Ass'n v Port Huron Area School Dist*, 452 Mich 309, 323; 550 NW2d 228 (1996). Despite plaintiff's contention to the contrary, we agree with the arbitration panel that a patent ambiguity existed on the face on the AIA contract.<sup>3</sup>

Next, plaintiff argues that, even assuming that there was an ambiguity, the arbitration panel was limited to considering extrinsic evidence for the purpose of resolving the ambiguity itself, not for determining the true intent of the parties. Thus, plaintiff asserts that the trial court erred in finding that the arbitration panel did not exceed its authority. Again, we disagree.

The arbitration panel found the AIA contract was ambiguous on its face as to whether the "owner" referenced Community Hospital or HEG. After viewing extrinsic evidence, the panel concluded that "the ambiguity creating possible liability on behalf of the hospital for [plaintiff's] fees was an unintended consequence, and that direct liability was always owed by HEG for [plaintiff's] fees." Contrary to plaintiff's contention, the arbitration panel permissibly considered extrinsic evidence in making its determination. Our Supreme Court announced in

---

<sup>2</sup> The first page of the contract identifies Community Hospital as the "owner," plaintiff as the "architect," and HEG as the "project developer." On the signature page of the contract, plaintiff's vice president signed on behalf of plaintiff on the signature line on the side of the page designated as "architect." HEG's president signed on behalf of HEG on the signature line on the side of the page designated as "owner." Community Hospital's vice president signed on behalf of the hospital on a line marked "Insert H" underneath HEG's signature on the side of the page designated as "owner."

<sup>3</sup> A patent ambiguity is one which is apparent on the face of the instrument, and may arise by reason of inconsistency in the contract's language. *Zilwaukee Twp v Saginaw Bay City R Co*, 213 Mich 61, 69; 181 NW 37 (1921).

*Goodwin, Inc v Orson E Coe Pontiac, Inc*, 392 Mich 195, 209-210; 220 NW2d 664 (1974), that extrinsic evidence may be considered in the following circumstances:

1) Where ambiguity may exist in a contract, extrinsic evidence is admissible to prove the existence of ambiguity.

2) Where ambiguity may exist in a contract, extrinsic evidence is admissible to indicate the actual intent of the parties.

3) Where ambiguity exists in a contract, extrinsic evidence is admissible to indicate the actual intent of the parties as an aid in the construction of the contract.

Therefore, the arbitration panel followed the applicable contract law in resolving the ambiguity.

Whether we would have decided the issue differently is irrelevant because reviewing courts may not substitute their judgment for that of the arbitrators. *Gordon Sel-Way, supra* at 497. The arbitrator's factual findings are not subject to judicial review, *Gavin, supra* at 429, nor may reviewing courts engage in contract interpretation, *Konal v Forlini*, 235 Mich App 69, 74; 596 NW2d 630 (1999). Accordingly, the trial court did not err in finding that the arbitration panel did not exceed its authority.

Affirmed.

/s/ Michael R. Smolenski

/s/ Jessica R. Cooper

/s/ Karen M. Fort Hood